

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KATHERINE BELCASTRO GONZALEZ,)	CASE NO. 8:19CV572
)	
Plaintiff,)	
)	
v.)	
)	PLAINTIFF'S REPLY BRIEF
CITY OF OMAHA, a Municipal)	IN SUPPORT OF PLAINTIFF'S
Corporation, TODD SCHMADERER,)	MOTION TO STRIKE
Chief of Police of the Omaha Police)	
Department, in his official and individual)	
Capacity)	
)	
Defendants.)	

COMES NOW the Plaintiff, by and through her attorneys, and hereby submits her Reply Brief in support of her Motion to Strike.

ARGUMENT

Defendants admit in their opposition brief that the Affidavit of Deputy Chief Shaffer includes hearsay. (ECF Filing #167 at Page ID #2176). Defendants also do not even attempt to explain why several layers of hearsay and a fog bank of uncertainty were not removed by simply obtaining and offering the affidavit of the retired officer who allegedly supplied information about conversations with an unknown juror on an uncertain date. Nor is any explanation given by Defendants for the failure to produce the text messages alleged to underpin Deputy Chief Shaffer's affidavit. Nothing in Federal law inhibits the creation and introduction of such evidence. The Defendants fail not because of the laws restricting communications with jurors, but rather the dearth of reliable and admissible evidence of any inappropriate conversations or actions of the jury.

CONCLUSION

For all of the reasons set forth above and Brief in Support of Plaintiff's Motion to Strike, Plaintiff respectfully requests that the Court grant the Plaintiff's Motion to Strike certain portions of the Affidavit of Thomas Shaffer (ECF Filing No. 157-1).

KATHERINE BELCASTRO-GONZALEZ,
Plaintiff

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CERTIFICATE OF COMPLIANCE

Pursuant to NECivR 7.1(d)(3), I hereby certify this brief complies with the requirements of NECivR 7.1(d)(1). Relying on the word-count function of WordPerfect Office X5, this document contains 250 words. The word-count function was applied to all text, including the caption, headings, footnotes and quotations.

s/Thomas M. White

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which sent notification of such filing to Defendants' attorney, Michelle Peters, City of Omaha, 1819 Farnam Street, Suite 804, Omaha, NE 68183.

s/Thomas M. White
Thomas M. White